

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DARYL J. CARTER,)	
)	
Plaintiff,)	
)	
v.)	
)	
STANLEY W. TAYLOR, individually;)	
RAPHAEL WILLIAMS, individually;)	
SITTA B. GOMBEH-ALIE, M.D.,)	
individually; MUHAMMAD ARIF NIAZ,)	C.A. No. 07-517 ***
M.D., individually; CORRECTIONAL)	
MEDICAL SERVICES, INC., a Missouri)	JURY TRIAL DEMANDED
corporation; CORRECTIONAL MEDICAL)	
SERVICES OF DELAWARE, INC., a)	
Delaware corporation; JOHN DOE)	
MEDICAL PERSONNEL; and JOHN DOE)	
CORRECTIONAL PERSONNEL,)	
)	
Defendants.)	

**MOTION FOR DEFAULT JUDGMENT
PURSUANT TO FED. R. CIV. P. 55(b)(2)**

NOW COMES plaintiff, by and through his attorney, Michael L. Sensor, Esquire, and moves this Honorable Court for an order entering judgment by default against defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. pursuant to Fed. R. Civ. P. 55(b)(2). In support of this Motion, the following is a statement:

1. On or about August 24, 2007, plaintiff filed this action in this Court alleging injuries arising out of medical treatment (and the lack thereof) rendered to him at the Howard R. Young Correctional Medical Institution in Wilmington, Delaware.

2. On August 29, 2007, defendant Correctional Medical Services, Inc. was served with the Summons issued by the Clerk by serving its registered agent, National Registered Agents, Inc. [D.I. 7]

3. On the same date, August 29, 2007, defendant Correctional Medical Services, Inc. was served with the Summons issued by the Clerk by serving its registered agent, National Registered Agents, Inc. [D.I. 6]

4. In addition, by letter dated August 24, 2007, a copy of the Complaint was forwarded directly to Scott Altman, the Ombudsman for defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc., by means of certified mail, return receipt requested. The receipt for said letter was signed for by a L. Price on August 27, 2007. *See **Exhibit A*** (8/24/07 letter to Mr. Altman and signed return receipt)

5. Pursuant to Fed. R. Civ. P. 12(a)(1)(A), defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. were required to answer, plead, or otherwise respond to the Complaint within twenty days of the date of service – that is, by September 18, 2007.

6. More than twenty days have elapsed since the date defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. were served, yet they have failed to answer, plead, or otherwise respond to the Complaint, nor have said defendants requested an extension of time in which to do so. *See **Exhibit B*** (Affidavit of Michael L. Sensor, Esquire).

WHEREFORE, plaintiff prays that this Honorable Court enter judgment by default against defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. pursuant to Fed. R. Civ. P. 55(b)(2).

D. DEL. LR 7.1.1 STATEMENT

Pursuant to D. Del. LR 7.1.1, the undersigned, attorney for plaintiff, certifies that it was impossible to make a reasonable agreement with the opposing parties on the matters set forth in

this Motion, inasmuch as the opposing parties are presently unrepresented and have failed to answer, plead, or otherwise respond to plaintiff's Complaint, as averred in this Motion.

PERRY & SENSOR

By: /s/ Michael L. Sensor
Michael L. Sensor, Esquire
Delaware Bar ID No. 3541
One Customs House, Suite 560
P.O. Box 1568
Wilmington, DE 19899-1568
Telephone: (302) 655-4482
Attorney for Plaintiff

Dated: October 25, 2007

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DARYL J. CARTER,)	
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Plaintiff,)	
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v.)	
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STANLEY W. TAYLOR, individually;)	
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individually; MUHAMMAD ARIF NIAZ,)	C.A. No. 07-517 ***
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MEDICAL SERVICES, INC., a Missouri)	JURY TRIAL DEMANDED
corporation; CORRECTIONAL MEDICAL)	
SERVICES OF DELAWARE, INC., a)	
Delaware corporation; JOHN DOE)	
MEDICAL PERSONNEL; and JOHN DOE)	
CORRECTIONAL PERSONNEL,)	
)	
Defendants.)	

ORDER

AND NOW, to-wit, this _____ day of _____, 200____, upon consideration of plaintiff's Motion for Default Judgment Pursuant to Fed. R. Civ. P. 55(b)(2);

AND IT APPEARING to the Court that defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. were each duly served with process on August 29, 2007 and have each failed to answer, plead or otherwise respond to plaintiff's Complaint within the time required by the rules of this Court, and have otherwise failed to request an extension of time from which to do so;

AND IT FURTHER APPEARING to the Court that defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. are neither minors, nor incompetent, nor members of the military service of the United States;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that judgment by default pursuant to Fed. R. Civ. P. 55(b)(2) be, and hereby is, **ENTERED** in favor of plaintiff Daryl J. Carter and against defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc., and that the Clerk shall record the same; and

IT IS FURTHER ORDERED that the amount of damages to be awarded by default against defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. for plaintiff's damages shall be determined by inquisition at a hearing to be scheduled by the Court.

United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 25, 2007, he electronically filed the following document with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following person(s), counsel of record for defendants Williams and Taylor:

DOCUMENT:

Plaintiff's Motion for Default Judgment Pursuant to Fed. R. Civ. P. 55(b)(2)

RECIPIENT:

Marc Niedzielski, Esquire
Department of Justice
Carvel State Office Building
820 North French Street
Wilmington, DE 19801

The undersigned hereby certifies that true and correct copies of the aforementioned document were also sent by means of first class U.S. Mail, postage prepaid, and certified mail, return receipt requested, to the following:

Mr. Scott S. Altman
Correctional Medical Services, Inc.
1201 College Park Drive, Suite 101
Dover, DE 19904

Correctional Medical Services, Inc.
c/o National Registered Agents, Inc.
160 Greentree Drive
Dover, DE 19904

Correctional Medical Services of Delaware, Inc.
c/o National Registered Agents, Inc.
160 Greentree Drive
Dover, DE 19904

PERRY & SENSOR

By: /s/ Michael L. Sensor
Michael L. Sensor, Esquire
Delaware Bar ID No. 3541
One Customs House, Suite 560
P.O. Box 1568
Wilmington, DE 19899-1568
Telephone: (302) 655-4482
Attorney for Plaintiff

Dated: October 25, 2007

PERRY & SENSOR

ATTORNEYS AT LAW

ONE CUSTOMS HOUSE
SUITE 560

POST OFFICE BOX 1568
WILMINGTON, DELAWARE 19899

JAMES T. PERRY*
MICHAEL L. SENSOR*

*ALSO ADMITTED IN NEW JERSEY

TELEPHONE
(302) 655-4482

FACSIMILE
(302) 655-4043

August 24, 2007

Mr. Scott S. Altman
Correctional Medical Services
1201 College Park Drive, Suite 101
Dover, DE 19904

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED AND
FIRST CLASS U.S. MAIL**

Re: Daryl J. Carter v. Stanley W. Taylor, et al.

Dear Mr. Altman:

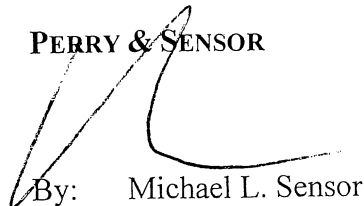
This firm represents Mr. Daryl J. Carter in connection with a claim against, among others, Correctional Medical Services arising out of treatment he received at Howard R. Young Correctional Institution in Wilmington, Delaware between August 25, 2005 and October 19, 2005.

I have filed suit against Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. in the United States District Court for the District of Delaware. Enclosed you will find a courtesy copy of the Complaint and Motion for Disclosure of Medical Records filed today with the Court.

Please forward this letter and the enclosures to the insurance carrier which insured CMS at the time of this loss. Thank you.

Very truly yours,

PERRY & SENSOR


By: Michael L. Sensor

/mls
Enclosures

EXHIBIT A

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 1.48	Postmark Here
Certified Fee	2.05	
Return Receipt Fee (Endorsement Required)	2.15	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 5.68	

Sent To: *Scott S. Altman*

Street, Apt. No., or PO Box No. *1201 College Park Dr. Ste 10*

City, State, ZIP+4 *Dover DE 19904*

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Scott S. Altman
CMS
1201 College Park Dr.
Suite 101
Dover DE 19904

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]* ☐ Agent ☒ Addressee

B. Received by (Printed Name) *L. Price* C. Date of Delivery *8-27-07*

D. Is delivery address different from item 1? ☐ Yes ☒ No
 If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☒ No

2. Article Number
 (Transfer from servi

7003 2260 0005 0858 0769

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

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DARYL J. CARTER,)	
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SERVICES OF DELAWARE, INC., a)	
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MEDICAL PERSONNEL; and JOHN DOE)	
CORRECTIONAL PERSONNEL,)	
)	
Defendants.)	

AFFIDAVIT OF MICHAEL L. SENSOR, ESQUIRE

STATE OF DELAWARE)	
)	ss:
NEW CASTLE COUNTY)	

BE IT REMEMBERED that on this 24 day of October, 2007,
personally appeared before me, the Subscriber, a Notary Public for the State and County
aforesaid, Michael L. Sensor, Esquire, known to me personally to be such, and being duly sworn
according to law, did depose and say as follows:

1. I am the attorney for the plaintiff in the above-captioned action;
2. To the best of my knowledge, information and belief, defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. are not infants or incompetent persons, nor are they in the armed forces of the United States.

3. Defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. have defaulted in this action in that they have failed to answer the Complaint filed by plaintiff, service of the Complaint having been made upon them on or about August 29, 2007.

4. The facts contained in the attached Motion for Default Judgment Pursuant to Fed. R. Civ. P. 55(b)(2) are true and correct to the best of my knowledge.



Michael L. Sensor, Esquire

SWORN TO AND SUBSCRIBED before me the day and year aforesaid.



NOTARY PUBLIC

SHARON E. KLEIMAN
NOTARY PUBLIC
STATE OF DELAWARE
My commission expires July 17, 2009